

NEW HAMPSHIRE REAL ESTATE COMMISSION

COMMISSION MEETING

NOVEMBER 18, 2003

A meeting of the New Hampshire Real Estate Commission was held on Tuesday, November 18, 2003 at 8:30 a.m. in Room 425, State House Annex, 25 Capitol Street, Concord, New Hampshire 03301.

Meeting called to order at 8:30 a.m. by Chairman Arthur Slattery

Present: Commissioners Arthur Slattery, Pauline Ikawa, Nancy LeRoy, Barbara Heath, Robert Stephen, Executive Director Beth Emmons, and Investigator Ann Flanagan.

- I. Motion by Commissioner Ikawa, seconded by Commissioner LeRoy, to approve and accept the minutes of the Commission meeting held on October 14, 2003.

II. APPOINTMENTS

8:30 a.m. - Equivalency Interviews

<u>CANDIDATE</u>	<u>COMMISSIONER</u>	<u>DETERMINATION</u>
JIM BURKE	IKAWA	APPROVED
JIM BRASHIER	LeRoy	APPROVED
EDWARD C. GORDON	SLATTERY	APPROVED

9:30 a.m. – JUDITH A. GRAY appeared before the Commission to explain a “yes” answer to question #8 on her salesperson’s application. After review and discussion, and on motion by Commissioner LeRoy, seconded by Commissioner Slattery, the Commission decided to approve Ms. Gray’s salesperson application for licensure, once the Commission receives a letter from Ms. Gray’s principal broker informing the Commission that he is aware of Ms. Gray’s previous legal incidents. Commissioner Ikawa voted in opposition to the decision.

DISCUSSION

RULEMAKING – The Commission members reviewed and discussed Final Proposal 2003-88 approved by the Joint Legislative Committee on Administrative Rules at their September 18, 2003 meeting. On motion by Commissioner Ikawa, seconded by Commissioner LeRoy, it was the unanimous decision of the Commission members present and voting to approve the final proposal. The Commission directed the Executive Director to file the final proposal with the Office of Legislative Services to become effective January 1, 2004 at 12:01 a.m.

Commissioner LeRoy submitted an inquiry from Bobbie Goodrich of Hourihane, Cormier & Associates for clarification, as to whether it is permissible for a seller to direct a real estate agent to expose the contents of other offers received to the buyers in an effort to cause the buyers to submit competitive offers. After review and discussion, the Commission decided that this did not violate RSA 331-A or Administrative Rules Rea 100-700.

2003 INSTRUCTOR'S WORKSHOP ABSENTEE LIST – the Commission's Education Program Assistant presented to the Commission, the Instructor Absentee List, along with the reasons submitted by the Instructors for not attending the mandatory Annual Instructor's Workshop held in October. The following instructors' reasons for non-attendance at the Annual Instructor's Workshop were accepted, and their accreditation remains in effect:

William Weidacher of Carlson School of Real Estate
Anita Hill of Carlson School of Real Estate

The following instructor's accreditation was removed until full attendance is demonstrated at the next Annual Instructor's Workshop in October 2004:

David Minton of Carlson School of Real Estate

JOHN LOMBARDI of Coldwell Banker Grace Drapeau Real Estate, Inc. submitted the following questions to the Commission for clarification:

1. With regard to RSA 331-A:2, III paragraphs (g), (h) and (i), can an unlicensed individual, such as a mortgage broker, host an open house without a licensee being present provided that the unlicensed individual is not compensated for their services? After review and discussion, the Commission stated that it is permissible for an unlicensed individual to host an open house without a licensee present as long as the unlicensed individual is not performing the acts of real estate brokerage as defined in RSA 331-A:2 and being compensated for their services.
2. With regard to RSA 331-A:2, III paragraphs (g), (h) and (i), can an unlicensed individual, such as an assistant, host an open house without a licensee being present and, can the assistant be compensated for their time? After review and discussion, the Commission stated that it was permissible for an unlicensed individual to be compensated for their time while performing the duties of an unlicensed individual, as long as the individual does not perform the acts of real estate brokerage as defined in RSA 331-A:2.
3. With regard to RSA 331-A:16, IV paragraphs (a) and (b), can a lending institution pay for and advertise real estate without mentioning in the advertisement the regular business name of the listing firm provided that the lending institution is not compensated for their services? After review and discussion, the Commission stated that if the lending institution advertises without the listing agent's knowledge, the listing agent would not be in violation of RSA 331-A:16. If the listing agent

has knowledge of the advertisement, the listing agent would be required to ensure that the advertisement included the business name. The Commission believes that multiple blind ads could only be published with the licensee's knowledge.

RICHARD HARRIS of Harris' Real Estate School submitted the following questions for clarification from the Commission:

1. If a quiz is required for a distance learning course, can twenty minutes of a 2 or 3 hour distance education elective course be used to complete the quiz? After review and discussion, the Commission unanimously decided that quizzes and/or tests may not be included in the course hours for distance learning courses.
2. How many years are required for an accredited instructor to keep quizzes and affidavits on file. After review and discussion, the Commission stated that there are no current requirements for recordkeeping for accredited instructors under RSA 331-A or Administrative Rules Rea 100-700, but felt that instructors should keep records of attendance, quizzes and affidavits for at least 3 years.
3. If core and elective videos are used as part of a real estate office meeting as a way to satisfy the licensees continuing education requirements and watch the video as a group, are the licensees required to take the quiz separately or should they take the quiz home and mail it to the instructor from home? After review and discussion, the Commission stated that all quizzes for video courses that were reviewed as a group must be taken individually.

EDUCATION REQUIREMENTS – The Commission's Education Program Assistant presented to the Commission the following questions for clarification which were submitted by Instructors at the Instructor's Workshop held in October:

1. May two separate 40 hour pre-licensing courses be used to meet the 60 hour broker education requirement? After review and discussion, the Commission unanimously decided that only one 40 hour pre-licensing course can be submitted as acceptable education to fulfill the 60 hour broker requirement.
2. May the same 40 hour pre-licensing course that is used to meet the salesperson's education requirement be used toward the required 60 hour broker education requirement? After review and discussion, the Commission unanimously decided that it is permissible for a 40 hour pre-licensing course which was submitted for the 40 hour salesperson education requirement, to be used toward the fulfillment of the 60 hour broker education requirement as well.

III. OTHER BUSINESS

1. Tuesday, December 16, 2003, was unanimously approved as the date for the next regular meeting.

2. CASE EVALUATIONS

(a) **FILE NO. 2003-02-08**

Evaluator: Commissioner Slattery

Determination: No violation, should not be heard.

(b) **FILE NO. 2003-03-05**

Evaluator: Commissioner LeRoy

Determination: Should be heard, hearing to be scheduled.

(c) **FILE NO. 2003-04-03**

Evaluator: Commissioner Slattery

Determination: No violation, should not be heard.

(d) **FILE NO. 2003-05-06**

Evaluator: Commissioner LeRoy

Determination: Should be heard, hearing to be scheduled.

(e) **FILE NO. 2003-06-02**

Evaluator: Commissioner LeRoy

Determination: Should be heard, hearing to be scheduled.

(f) **FILE NO. 2003-06-05**

Evaluator: Commissioner Ikawa

Determination: Should be heard, hearing to be scheduled.

(g) **FILE NO. 2003-07-01**

Evaluator: Commissioner LeRoy

Determination: No violation, should not be heard.

(h) **FILE NO. 2003-09-01**

Evaluator: Commissioner Ikawa

Determination: Should be heard, hearing to be scheduled.

The above determinations were unanimously approved.

IV. **HEARING 10:10 AM**

**FILE NO. 2001-05-03 JON R. CHAMBERLAIN & PATRICIA C. REYNOLDS VS
JACQUELINE NOSEWORTHY & LAURIE COFFIN**

Evaluators: Commissioners Heath – Initial Evaluator and Commissioner Ikawa – Re-evaluator

The following persons were present at the hearing:

Commission: Commissioners Arthur Slattery, Nancy LeRoy, Robert Stephen, Executive Director Beth Emmons, and Investigator Ann Flanagan

Evaluators: Commissioner Heath and Ikawa both evaluated the above matter and abstained from participation in the discussion and resulting decisions.

Complainants: Patricia C. Reynolds
for
Patricia C. Reynolds & Jon R. Chamberlain

72 Post Pond Lane
Lyme, NH 03768

Attorney: Pro Se

Witnesses: None

Respondent: Jacqueline Noseworthy

8437 Radcliffe Terrace #203
Naples, FL 34120

Attorney: Luke A. Glavey

23 West Street, Suite No. 4
Ashland, NH 03217

Witnesses: None

&

Respondent: Laurie Ann Coffin

Noseworthy Real Estate
48 Main Street, PO Box 854
Ashland, NH 03217

Attorney: Donald F. Hebert

Hebert & Uchida
244 North Main Street
Concord, NH 03301

Witnesses: None

Decision: Pending – subject to review of transcripts and exhibits.

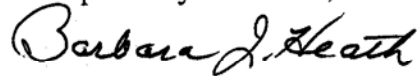
- V. **NON-PUBLIC SESSION** – The Commission adjourned the Commission meeting to conduct a non-public session for consultation with its legal counsel, pursuant to RSA 91-A at 12:55 pm. The non-public session was adjourned by the Chairman at 1:20 p.m.

The public session of the Commission meeting was reconvened at 1:20 p.m.

VI. **ADJOURNMENT**

Motion by Commissioner Ikawa, seconded by Commissioner LeRoy to adjourn the meeting. Chairman Slattery adjourned the meeting at 1:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara J. Heath".

Barbara J. Heath
Clerk